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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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October 30, 2008

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The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Martin:

I have procedural and substantive concerns with your proposal regarding inter-carrier compensation and the universal service fund that is slated for Commission consideration on November 4, 2008.

With respect to administrative process, the specific proposal has not been published in the Federal Register or circulated in draft form for comment by the public. Given the importance of reform to consumers and the economic significance to the affected parties, fundamental fairness suggests that the public at least have the chance to read the full proposed order prior to Commission consideration. Affording the opportunity to review and provide meaningful comment seems all the more important in this instance because of the scope of the proposed order. I understand it goes well beyond your court-ordered obligations to resolve the inter-carrier compensation regime associated with Internet service provider-related traffic. While I appreciate your desire to make further progress on the broader issues of universal service reform and inter-carrier compensation, the need for reform and the deadline on the narrower issue are not excuses for skirting the fundamental administrative fairness of allowing the public to comment.

And with respect to the substance, while I applaud your effort to tackle long overdue universal service reform, the item misses the mark. The cap on spending in the high-cost program is a good start, but the rest of the proposal is neither competitively nor technologically neutral. It locks in incumbent providers rather than bring competition to rural America. Based on a briefing by FCC staff, it appears the suggested order would only require the incumbent rural wireline provider in a market to face the rigor of a competitive auction if it declines to use the subsidy to provide broadband to its entire study area. This means the rural provider could continue to get the subsidy even if another provider could offer service more efficiently. I also

understand the proposal expands the fund into broadband instead of overhauling inappropriate voice subsidies. The program has already cost Americans \$51 billion over ten years, and yet there is still no end in sight. Adding broadband will only entrap yet another service in this broken and anti-competitive subsidy program. This would be worse than even the status quo. I strongly urge you to drop broadband from the proposal.

I introduced a bill (H.R. 6356) to reform the universal service fund, which I commend to you as a map for achieving real universal service reform based on three key elements:

1. Cap the money spent in the high-cost program at current levels, as you propose.
2. To determine the most efficient provider of universal service in all areas, conduct reverse auctions in which all providers can compete regardless of technology, and without the proposed "right-of-first refusal" for incumbents. When the government purchases phone services, it expects competitive bids. Rural America deserves no less.
3. Adopt performance measures. Inexcusably, the universal service program still does not include a yardstick for determining success or failure. As a result, there is no way for people to know what they are getting in return for their increasing "donations" to the program.

You have an opportunity to make meaningful reforms to the universal service program so that it matches today's marketplace realities. Simply applying the existing fund mechanisms to broadband would be irresponsible and a continued betrayal of the hardworking people of rural and urban America alike. Please do not squander this chance to truly reform the fund and deliver much needed relief to consumers in these tough economic times.

Sincerely,



Joe Barton
Ranking Member

cc: Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Deborah Taylor Tate
The Honorable John D. Dingell, Chairman
Committee on Energy and Commerce
The Honorable Edward Markey, Chairman
Subcommittee on Telecommunications and the Internet